



PUBLIC EMPLOYMENT RELATIONS BOARD

2010-2011 ANNUAL REPORT

October 15, 2011



EDMUND G. BROWN JR., GOVERNOR

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

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Board Members

*ANITA I. MARTINEZ
*SALLY M. MCKEAG
*ALICE DOWDIN CALVILLO
*A. EUGENE HUGUENIN
ROBIN W. WESLEY
KARI MINER

*Current Board Members

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PUBLIC EMPLOYMENT RELATIONS BOARD

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October 13, 2011

Dear Members of the State Legislature and fellow Californians:

In 2010-11, the Public Employment Relations Board (PERB) was uniquely positioned to see from many vantage points the practical impact the recession has had on the relationship among public employers, public employees, and public employee organizations. The recession reduced California's revenue base by 30 percent, resulting in continued challenges to the state's ability to deliver quality public service.

PERB's staffing complement has been reduced from approximately 103 in the 1980's to approximately 40 at the current time. During the same time period, PERB's constituency has increased from approximately 1200 to over 6000 public employers; from fewer than 1 million to over 2 million public employees; and from 3 to 7 statutory schemes governing employer/employee relations. As was the case with public employers and public employees generally, PERB and its staff were required to do more with less.

We are proud to report that the substantial economic challenges did not diminish the spirit of élan, teamwork and commitment to public service that PERB members and employees historically have enjoyed in fulfilling their statutory duties. Our mission is guided by the premise that by adjudicating public sector labor relations disputes in an expert, fair and efficient manner, we can enhance public employers and employees' commitment to public service. Indeed, as the data provided below demonstrate, PERB managed well its workload by heightening its productivity in hearing and deciding cases and by successfully undertaking a backlog of important representation cases.

Adding to the economic turmoil in 2010-11, political and legal controversy permeated the national landscape of public employment relations. In Wisconsin, questions about the continuing viability of public sector collective bargaining were spotlighted, which sparked similar debates in other states. We are happy to report, however, that California public sector labor relations followed a far more positive course during the same troubled time period. As the data provided below demonstrate, California public employers and employee organizations have shown a strong commitment to resolving labor negotiations and labor disputes through the constructive legal and mediatory channels available under California's comprehensive public sector labor relations statutes. While public employers and public employee organizations have not had it easy in this economic climate, the vast majority of collective bargaining disputes have been resolved successfully and amicably through negotiations, often with the assistance of PERB and its sister agency, the State Mediation and Conciliation Service.

October 13, 2011

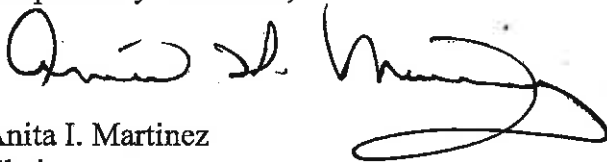
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As we enter the 2011-12 fiscal year, we are fortified by the continued dedication of PERB staff in fulfilling the agency's important statutory mission. We are further encouraged by the commitment of public employers, employee organizations and employees alike in working together to deliver quality public service through hard work, cooperation and mutual respect. Finally, we are appreciative of the Governor's and the Legislature's continued recognition of the important role that public sector collective bargaining plays in stabilizing public employment and ensuring the delivery of quality public services.

All of us at PERB hope that you find this report informative and helpful. It summarizes PERB's scope and the results of the year's work in its description of PERB's responsibilities (statutory authority, jurisdiction, purpose and duties) and activities (legislation, rulemaking and case dispositions).

Please visit our website at www.perb.ca.gov or contact PERB at (916) 322-3198 for any further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anita I. Martinez', with a large, stylized flourish at the end.

Anita I. Martinez
Chair

Introduction of Board Members and Administrators

Board Members

Anita I. Martinez has been employed with the Public Employment Relations Board (PERB or Board) since 1976. In May 2011, Governor Edmund G. Brown Jr. appointed her Member and Chair of the Board. Prior to her appointment, Ms. Martinez served as the PERB San Francisco Regional Director since 1982. Her duties included supervision of the regional office, investigation of representation cases and unfair practice charges, and the conduct of settlement conferences, representation hearings, and elections. Before joining PERB, Ms. Martinez worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender treatise, California Public Sector Labor Relations, she has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Ms. Martinez received her B.A. in Political Science from the University of San Francisco. Ms. Martinez' term expires in 2013.

Sally M. McKeag was reappointed to PERB by Governor Arnold Schwarzenegger on February 23, 2007. She has served in this capacity since March 2005.

Prior to her appointment to the Board, she served as Chief Deputy Director of the California Employment Development Department. She also served as Deputy Staff Director of the Governor-Elect's Transition Team.

Ms. McKeag returned to California after two years in Washington, D.C. where she worked for the U.S. Department of Labor. Specifically, she was recruited to serve as Chief of Staff to the Department of Labor's Employment and Training Administration Assistant Secretary.

Prior to her employment at the Department of Labor, Ms. McKeag served in a variety of capacities for the California State Senate and the Wilson Administration. Specifically, she was Director of Public Affairs for the Senate Republican Caucus where she oversaw the development and implementation of strategies to support Senate members in representing their constituencies. Under Governor Pete Wilson, she served as Deputy Director of Operations for the Department of Consumer Affairs, Acting Deputy Director of the Department of Fish and Game, and Director of the Governor's Office of Constituent Affairs.

Before coming to California to work for Governor Wilson, Ms. McKeag served in the Reagan and Bush Administrations in Washington, D.C. She was the Director of the Executive Secretariat at the Environmental Protection Agency, overseeing the coordination of all correspondence and other official documents for the EPA Administrator. Ms. McKeag was also Special Assistant to the Secretary of the Interior, supervising all functions related to scheduling of the Secretary's participation in official and political events. Ms. McKeag's term expires in 2011.

Alice Dowdin Calvillo was appointed to the Board by Governor Arnold Schwarzenegger in January 2008, confirmed by the Senate in January 2009, and designated Acting Chair in May 2009. The Governor designated Ms. Dowdin Calvillo Chair of the Board in April 2010. Ms. Dowdin Calvillo has more than 20 years of experience working in State and local government. Since 2005, Ms. Dowdin Calvillo served in several senior level advisory positions to Governor Schwarzenegger, including as Chief Deputy Cabinet Secretary and Chief Deputy Appointments Secretary. Before joining the Governor's Office, she was Governor Schwarzenegger's Legislative Director for the California Department of Toxic Substances Control.

Governor Pete Wilson appointed Ms. Dowdin Calvillo as a Chief Advisor to the California Integrated Waste Management Board in early 1998 and prior to that she was his appointment as Deputy Director of Legislation and Operations for the Managed Health Care Improvement Task Force. Ms. Dowdin Calvillo also served as the Chief Consultant to the California State Assembly Consumer Protection, Governmental Efficiency and Economic Development Committee in the mid 1990s. Before joining the Assembly staff, Ms. Dowdin Calvillo served in a variety of senior analytical positions within State service.

Ms. Dowdin Calvillo served two terms on the Auburn City Council from 1998-2005 and was Mayor in 2001 and 2005. During her tenure on the City Council, Ms. Dowdin Calvillo served on several commissions and committees, including the Placer County Economic Development Board (where she also served as Chair), Board of Directors for the Sacramento Area Council of Governments, Regional Wastewater Treatment and Storage Facility Joint Powers Authority, and Local Agency Formation Commission for Placer County. In addition, she was a member of the Sacramento Region Advisory Board for the Great Valley Center.

The Placer County Board of Supervisors appointed Ms. Dowdin Calvillo as the District 3 representative on the Placer County Parks Commission in 1997, where she served as its Chair in 1999 and 2000.

Ms. Dowdin Calvillo obtained her Bachelor of Arts in Political Science-Public Service and in German from the University of California, Davis. Ms. Dowdin Calvillo's term expires in 2012.

A. Eugene Huguenin was appointed to the Board by Governor Edmund G. Brown Jr. in May 2011. Prior to his appointment, Mr. Huguenin practiced labor, employment and education law in the Sacramento-area. He advised and represented public employees and their organizations in judicial and administrative proceedings, and consulted on educational policy and procedures. From 2005 to 2009, he served as a commissioner on the Fair Political Practices Commission.

Before relocating to Sacramento in 2000, Mr. Huguenin practiced labor and education law in Los Angeles and Burlingame for more than 20 years, advising and representing the California Teachers Association and its locals throughout the state. From 1973 to 1979, Mr. Huguenin consulted for CTA on labor relations issues. Prior to joining CTA, he was employed in the Seattle area by a local teachers association and a national accounting firm.

Mr. Huguenin is a member of the California Association of Political Attorneys, the Los Angeles County Bar Association, the State Bar of California and the American Bar Association. He received a Bachelor's degree in Business Administration in 1966, and a Juris Doctor in 1969, from the University of Washington. Mr. Huguenin's term expires in 2015.

Robin W. Wesley was appointed to the Board in July 2007. Ms. Wesley first came to PERB in January 1991 as a legal advisor to a Board member. She served as a legal advisor to five different Board members before joining the General Counsel's office as a regional attorney. In July 2006, Ms. Wesley was tapped to serve as the acting General Counsel. Thereafter, she served briefly as an administrative law judge before her appointment to the Board.

From 1983 to 1991, Ms. Wesley served as deputy director for local government affairs in Governor Deukmejian's Office of Planning and Research. From 1978 to 1983, she served as the District representative for Assemblyman Dave Kelley.

Ms. Wesley is a graduate of Westmont College and McGeorge School of Law. Her term expired on December 31, 2010, and she is now an Administrative Law Judge in the Sacramento PERB office.

Kari Miner of Sacramento, was appointed and served on the Board from January-March 2011. Since 2003, she has been an independent consultant to small businesses focusing on image and efficiency. Prior to that, Miner was a statewide development and programs officer at the Department of Alcohol and Drug Programs from 1996 to 2002. Previously, she was a paralegal for the law firm Burger and Plavan from 1993 to 1996.

Legal Advisors

Gregory T. Lyall was appointed as Legal Advisor to Member Sally M. McKeag in June 2005. Previously, Mr. Lyall served as a staff counsel at the California Department of Personnel Administration from 2001 to 2005. Before entering state service, Mr. Lyall was an associate attorney with the law firms of Kronick, Moscovitz, Tiedemann & Girard (1997-2001) and Pinnell & Kingsley (1994-1997). Mr. Lyall received his B.S. degree in Biology from the University of Southern California and his Juris Doctorate from the University of San Diego School of Law where he graduated with *cum laude* honors and served as a member of the San Diego Law Review. Mr. Lyall currently teaches a class on labor and employment law through U.C. Davis Extension.

Dorothy Bacskai Egel was appointed as Legal Advisor to Board Chair Tiffany Rystrom in May 2009. Since then, she has served as Legal Advisor to Members Karen L. Neuwald and Kari Miner. She currently serves as Legal Advisor to Member Alice Dowdin-Calvillo. Previously, Ms. Egel served as Staff Counsel IV to the California State Personnel Board, where she worked from 1995 to 2009. Prior to entering state service, Ms. Egel practiced labor and employment law with the firm of Cook, Brown, Rediger and Prager from 1987 to 1995. Ms. Egel received her Juris Doctor degree from Boalt Hall School of Law, University of California, Berkeley. She also holds a Masters of Public Policy from the Graduate School of Public Policy and a Bachelor of Arts degree in Political Economy of Industrial Societies, both

from the University of California, Berkeley. Ms. Egel is a member of the editorial board of the California Labor and Employment Law Review.

Sarah L. Cohen was appointed as Legal Advisor to Board Chair Anita I. Martinez in July 2011. Previously, Ms. Cohen served as Industrial Relations Counsel IV in the Office of the Director - Legal Unit at the Department of Industrial Relations, where she worked from 1994 to 2011. Prior to entering state service, Ms. Cohen was a legal services attorney in the Employment Law Office at the Legal Aid Foundation of Los Angeles from 1988 to 1994. Ms. Cohen received her Juris Doctor degree from the University of California, Hastings College of the Law. Ms. Cohen also holds a Bachelor of Arts degree from the University of California, Los Angeles.

James E. Coffey became a Research Counsel to Member A. Eugene Huguenin in June 2011. Mr. Coffey began his legal career as a law clerk for Klinedinst, PC in 2008. He then worked as a legal intern for the Voluntary Legal Services of Northern California Employment Law Clinic in 2009. Upon graduating from University of the Pacific, McGeorge School of Law in 2010, he worked for the California Parole Advocacy Program where he represented parolees before an Administrative Law Judge. In February 2011, Mr. Coffey began to work for PERB as a legal intern until his transition to his current position. Mr. Coffey received a B.A. degree in History from the University of Illinois at Urbana-Champaign.

Erich Shiners served as legal advisor to Chair Alice Dowdin Calvillo from March 2008 through May 2011. Since 2006, Mr. Shiners served as an attorney at Renne Sloan Holtzman Sakai, representing public sector and non-profit employers in labor and employment litigation, arbitration and negotiations. He has served as an adjunct instructor of Appellate Advocacy for McGeorge School of Law since 2004. In 2006, Mr. Shiners was a law clerk for Weinberg, Roger & Rosenfeld and in 2005 was a judicial extern for the Honorable M. Kathleen Butz at the Third District Court of Appeal. Mr. Shiners has also been a law clerk at the National Labor Relations Board in Washington, D.C. and the Agricultural Labor Relations Board in Sacramento. He earned a Juris Doctorate degree from the University of the Pacific, McGeorge School of Law and a Bachelor of Arts in history from the California State University, Sacramento.

Linda M. Kelly was appointed and served as Legal Advisor to Member Robin Wesley from November 2008 through December 2010. Prior to her appointment at PERB, Ms. Kelly served as a Labor Relations Counsel III at the California Department of Personnel Administration from 2006 to 2008. Before entering state service, Ms. Kelly served the California Union of Safety Employees, now known as California Statewide Law Enforcement Association, as Senior Staff Counsel from 2005 to 2006, and Staff Counsel from 1997 to 2005. Ms. Kelly also worked as a Hearing Representative for the California Correctional Peace Officers Association from 1996 to 1997. Ms. Kelly earned her B.A. degree in Psychology from the University of California, Los Angeles, and her Juris Doctorate from the University of the Pacific, McGeorge School of Law.

Miranda Carroll was appointed and served as Legal Advisor to Member Robin Wesley from January-March 2011.

Administrators

M. Suzanne Murphy was appointed PERB General Counsel in May 2011. Before joining PERB, she was the executive and legal director for Worksafe, a nonprofit organization dedicated to promoting workplace health and safety, from 2008 to 2009. She was legal counsel for the California Nurses Association from 2006 to 2007, and an appellate and litigation attorney with Weinberg, Roger and Rosenfeld from 2003 to 2006. Ms. Murphy also worked for the California Courts, where she was managing attorney in the Judicial Council's Center for Families, Children & the Courts from 2002 to 2003; supervising attorney in the Rules and Projects Unit in the Office of the General Counsel from 2000 to 2002; and a senior research attorney to the Honorable Michael J. Phelan and Patricia K. Sepulveda of the California Court of Appeal for the First Appellate District from 1993 to 2000. Earlier in her legal career, Ms. Murphy was an associate in the labor and employment group at Heller, Ehrman, White & McAuliffe from 1992 to 1993, and in the business and employment litigation groups at Cooley, Godward, Castro, Huddleston & Tatum from 1989 to 1991. She also served as a law clerk to the Honorable Cynthia Holcomb Hall of the U.S. Court of Appeals for the Ninth Circuit from 1988 to 1989, and from 2009 to 2011. Ms. Murphy received her A.B. degree in Human Biology, with distinction, from Stanford University in 1975. She received her J.D. degree from Boalt Hall School of Law in 1988, and was admitted to the Order of the Coif.

Wendi L. Ross joined PERB as Deputy General Counsel in April 2007 and has more than 20 years of experience practicing labor and employment law. Ms. Ross was employed for over 10 years by the State of California, Department of Personnel Administration as a Labor Relations Counsel. Prior to that position, she was employed as an associate attorney with the law firms of Pinnell & Kingsley and Theirman, Cook, Brown & Prager. She has also served as Chair of the Sacramento County Labor and Employment Law Section.

Shawn P. Cloughesy is the Chief Administrative Law Judge for PERB. He has 17 years experience as an Administrative Law Judge with two state agencies (PERB and the State Personnel Board) conducting hundreds of hearings involving public sector labor and employment matters. Prior to being employed as an administrative law judge, Mr. Cloughesy was a Supervising Attorney for the California Correctional Peace Officers Association, practicing and supervising attorneys who practiced before PERB and other agencies.

Eileen Potter began working for PERB in 1993 as the Administrative Officer. Her state service includes the Governor's Office of Planning and Research (OPR) from 1979 through 1990 culminating in her appointment as the Assistant Chief of Administration. After leaving OPR, Ms. Potter worked at the Office of Statewide Health Planning and Development and the Department of Health Services before coming to PERB as its Administrative Officer. She has a degree in Criminal Justice Administration with minors in Accounting and English from California State University, Sacramento.

Les Chisholm currently serves as Division Chief, Office of the General Counsel for PERB and served as Sacramento Regional Director since 1987. His duties include investigation of representation cases and unfair practice charges, and conduct of settlement conferences and

representation hearings and elections. Mr. Chisholm also has responsibilities in the areas of legislation, rulemaking and technology projects for the Board. He received a B.A. from Florida Atlantic University and M.A. in political science from the University of Iowa.

Christine A. Bologna served as Acting Chief Administrative Law Judge (ALJ) at PERB from March 2010 – June 2011. Currently, and since August 1, 2006, Ms. Bologna is an ALJ II at PERB having been re-appointed as an ALJ I in September 2005. Ms. Bologna was an ALJ II (Specialist) with the State Personnel Board (SPB) from March – September 2005, and served as Chief ALJ (ALJ II (Supervisor)) for SPB from June 1993 – February 2005. Ms. Bologna worked as an ALJ I with PERB from May 1990 – June 1993, after prior service as the PERB General Counsel from July 1988 – April 1990. Ms. Bologna also worked as Chief Counsel, Assistant Chief Counsel, and Labor Relations Counsel for the Department of Personnel Administration from July 1982 – June 1988; Staff Attorney for the California State Employees Association from June 1978 – June 1982; and as a law clerk and associate with Brundage, Williams & Zellmann in San Diego from 1976 – 1978.

From 1971 – 74, Ms. Bologna was a high school social studies teacher with Lake Shore School District in St. Clair Shores, Michigan. She is a graduate of Michigan State University (B.A. 1971) and the University of San Diego School of Law (J.D. 1977).

Ms. Bologna served two terms as a Hearing Officer for the Sacramento County Civil Service Commission. She has arbitrated cases with the City of Folsom and Folsom Correctional Peace Officers Association. She has taught Administrative Hearing Process classes to state and county investigators through the Public Safety Center, Los Rios Community College District, and to Internal Affairs staff of the Department of Corrections; and Administrative Hearing Advocacy and Mock Hearings courses through the University of California, Davis, University Extension.

Bernard McMonigle served as the Chief Administrative Law Judge for PERB since December 31, 2006. Mr. McMonigle was appointed as an administrative law judge (ALJ) in 2004, and had worked as a temporary ALJ since 1995. Prior to 2004, he served as a Regional Attorney and Senior Regional Attorney in the Office of the General Counsel. Mr. McMonigle joined the PERB staff in 1988.

Mr. McMonigle worked as a labor relations neutral since 1977, when he was appointed as a Commissioner of Mediation for the Federal Mediation and Conciliation Service. Before joining PERB, he was a Board Counsel for the California Agricultural Labor Relations Board. He has also served as a labor arbitrator; an ad hoc hearing officer for the Sacramento County Civil Service Commission; and the 1999 Chair of the Sacramento County Bar, Labor and Employment Law section.

A 1984 graduate of the University of the Pacific McGeorge School of Law, Mr. McMonigle also earned a B.B.A. in Economics from the University of Georgia, and an M.S. in Employment Relations from American University in Washington, D.C. Mr. McMonigle passed away September 4, 2010, after a short battle with a major illness.

Tami R. Bogert was appointed and served as General Counsel of PERB from February 2007 to December 2010. Before joining PERB, Ms. Bogert served as Deputy Legal Affairs Secretary for and in the Office of Governor Schwarzenegger from 2003 to 2007. Prior to that, she served at the California District Attorneys Association as a Director, a Supervising Attorney, and earlier on as Counsel for the Violence Against Women Project. Ms. Bogert also served during the 1990s as a member of the legal affairs team under Governor Wilson and in the California Attorney General's Office.

II. OVERVIEW

Statutory Authority and Jurisdiction

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties. The statutes administered by PERB are: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code, § 3540 et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code, § 3512 et seq.), establishing collective bargaining for State employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code, § 3560 et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968 (Gov. Code, § 3500 et seq.), which established collective bargaining for California's city, county, and local special district employers and employees. PERB's jurisdiction over the MMBA excludes specified peace officers, management employees, and the City and County of Los Angeles.

On January 1, 2004, PERB's jurisdiction was expanded to include the supervisory employees of the Los Angeles County Metropolitan Transportation Authority. The Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) is codified at Public Utilities Code section 99560 et seq.

Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 (Gov. Code, § 71600 et seq.) and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002 (Gov. Code, § 71800 et seq.).

Since 2001, approximately two million public sector employees and their employers are included within the jurisdiction of the seven collective bargaining statutory schemes administered by PERB. The approximate number of employees under these statutes is as follows: 675,000 work for California's public education system from pre-kindergarten through and including the community college level; 237,000 work for the State of California; 100,000 work for the University of California, California State University, and Hastings College of Law; and the remaining public employees work for California's cities, counties, special districts, trial courts, and the Los Angeles County Metropolitan Transportation Authority.

PERB's Purpose and Duties

The Board

The Board itself is composed of five Members appointed by the Governor and subject to confirmation by the State Senate. Board Members are appointed to five-year terms, with the term of one Member expiring at the end of each calendar year. In addition to the overall responsibility for administering the seven statutes, the Board acts as an appellate body to hear challenges to proposed decisions issued by Board agents. Decisions of the Board itself may be appealed under certain circumstances to the State appellate and superior courts. The Board, through its actions and those of its agents, is empowered to:

- conduct elections to determine whether employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- investigate impasse requests that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- ensure that the public receives accurate information and has the opportunity to register opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- interpret and protect the rights and responsibilities of employers, employees, and employee organizations under the Acts;
- bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- conduct research and training programs related to public sector employer-employee relations; and
- take such other action as the Board deems necessary to effectuate the purposes of the Acts it administers.

A summary of the Board's 2010-2011 decisions is included in the Appendices, beginning at page 27.

Major PERB Functions

The major functions of PERB involve: (1) the investigation and resolution of unfair practice charges; (2) the administration of the representation process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (3) the appeals of Board agent determinations to the Board itself; and (4) the legal functions performed by the Office of the General Counsel.

Unfair Practice Charges

The investigation and resolution of unfair practice charges is the major function performed by PERB. Unfair practice charges may be filed with PERB by an employer, employee organization, or employee. Members of the public may also file a charge, but only concerning alleged violations of public notice requirements under the Dills Act, EERA, HEERA, and TEERA. Unfair practice charges can be filed online, as well as by mail, facsimile, or personal delivery.

An unfair practice charge alleges an employer or employee organization engaged in conduct that is unlawful under one of the statutory schemes administered by PERB. Examples of unlawful employer conduct are: refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; and promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; and failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is reviewed by a Board agent to determine whether a prima facie violation of an applicable statute has been established. A charging party establishes a prima facie case by alleging sufficient facts to establish that a violation of the EERA, Dills Act, HEERA, MMBA, TEERA, Trial Court Act, or Court Interpreter Act has occurred. If the charge fails to state a prima facie case, the Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is given time to either amend or withdraw the charge. If the charge is not amended or withdrawn, it is dismissed. The charging party may appeal the dismissal to the Board itself.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent may file an answer to the complaint.

Once a complaint is issued, another Board agent is assigned to the case and calls the parties together for an informal settlement conference. The conference usually is held within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB Administrative Law Judge (ALJ) is scheduled. A hearing usually occurs within 100 to 120 days from the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party may appeal the proposed decision to the Board itself. The Board itself may affirm, modify, reverse, or remand the proposed decision.

Proposed decisions that are not appealed to the Board itself are binding upon the parties to the case, but may not be cited as precedent in other cases before the Board.

Decisions of the Board itself are both binding on the parties to a particular case and precedential. All Board decisions are available on our website (<http://www.perb.ca.gov>) or by contacting PERB. On the PERB website, interested parties can also sign-up for electronic notification of new Board decisions.

Representation

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications that have an internal and occupational community of interest. In most situations, if only one petition is filed, with majority support, and the parties agree on the description of the bargaining unit, the employer must grant recognition to the employee organization as the exclusive representative of the bargaining unit employees. If two or more employee organizations are competing for representational rights of an appropriate bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent holds a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation, and in some cases a hearing, and issues a written determination. That determination sets forth the appropriate bargaining unit, or modification of that unit, based upon statutory unit-determination criteria and appropriate case law. Once an initial bargaining unit has been established, PERB may conduct a representation election, unless the applicable statute and the facts of the case require the employer to grant recognition to an employee organization as the exclusive representative. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

A summary of PERB's 2010-2011 representation activity is included in the Appendices at page 25.

Mediation/Factfinding

PERB staff also assist parties in reaching negotiated agreements through the mediation process provided in EERA, HEERA, and the Dills Act, and through the factfinding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. If impasse occurs, a Board agent contacts both parties to determine if they have reached a point in their negotiations that further meetings without the assistance of a mediator would be futile. Once PERB has determined that impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

If settlement is not reached during mediation, either party, under EERA and HEERA, may request the implementation of statutory factfinding procedures. PERB appoints the factfinding chairperson, who with representatives of the employer and employee organization make findings of fact and advisory recommendations to the parties concerning settlement terms.

Appeals Office

The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. It maintains case files, issues decisions rendered, and prepares administrative records for litigation filed in California's appellate courts. This office is the main contact with parties and their representatives while cases are pending before the Board itself.

Office of the General Counsel

The legal representation function of the Office of the General Counsel includes:

- defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in the State appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision, order, or ruling, or with a subpoena issued by PERB;
- seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- defending the jurisdiction of the Board, submitting motions, pleadings, and amicus curiae briefs, and appearing in cases in which the Board has a special interest.

A summary of PERB's 2010-2011 litigation activity is included in the Appendices, beginning at page 56.

Other PERB Functions and Activities

Information Requests

As California's expert administrative agency in the area of public sector collective bargaining, PERB is consulted by similar agencies from other states concerning its policies, regulations, and formal decisions. Information requests from the Legislature and the general public are also received and processed.

Support Functions and Board Operations

The Administration Section provides support services to PERB, such as business services, personnel, accounting, information technology, mail, and duplicating. This section also handles budget development and maintains liaison with the Department of Finance and other State agencies.

PERB emphasizes use of technology as a means of increasing productivity and, therefore, has moved forward with the full development of its website. PERB's website now provides the ability to access PERB decisions, regulations, statutes, and forms online.

III. LEGISLATION AND RULEMAKING

Legislation

In 2010, there was only one bill enacted amending a statute under PERB's jurisdiction.

Assembly Bill 2767 (Chapter 212, Statutes of 2010) included amendments to Trial Court Act section 71601 to include child support commissioner and juvenile hearing officer under the definition of "subordinate judicial officer" found in subsection (i).

Rulemaking

The Board did not consider any rulemaking proposals in the 2010-2011 fiscal year.

IV. CASE DISPOSITIONS

Unfair Practice Charge Processing

The number of unfair practice charges filed with PERB generally has increased as a result of the changes in PERB's jurisdiction since 2001. In 2010-2011, 744 new charges were filed.

Dispute Resolutions and Settlements

PERB stresses the importance of voluntary dispute resolution. This emphasis begins with the first step of the unfair practice charge process—the investigation. During this step of the process in fiscal year 2010-2011, 285 cases (32% of 884 charge investigations completed) were withdrawn, many through informal resolution by the parties. PERB staff also conducted 330 days of settlement conferences for cases in which a complaint was issued. These efforts resulted in voluntary settlements (withdrawals) in 143 cases (approximately 45% of the 320 cases closed after issuance of a complaint and prior to a hearing).

PERB's high success rate in mediating voluntary settlements is, in part, attributable to the tremendous skill and efforts of its staff, but also requires commitment by the parties involved to look for solutions to problems. As the efforts of PERB staff demonstrate, voluntary settlements are the most efficient and timely way of resolving disputes, as well as providing an opportunity for the parties to improve their collective bargaining relationships. PERB looks forward to continuing this commitment to voluntary dispute resolution.

Administrative Adjudication

Complaints that are not resolved through voluntary mediation are sent to the Division of Administrative Law for an evidentiary hearing before an administrative law judge (ALJ). In 2010-2011, 6 ALJs issued 38 proposed decisions, averaging 122 days to render a decision. Of the 38 proposed decisions, 16 were appealed to the Board, 21 became final and 1 decision where time is running for appeal. The Division closed 103 cases.

Board Decisions

Proposed decisions issued by PERB's administrative law judges and Board agent dismissals of unfair practice charges may be appealed to the Board itself. During the 2010-2011 fiscal year, the Board issued 79 decisions and also considered 16 requests for injunctive relief. (A summary of injunctive relief requests filed compared to prior years is included in the Appendices at page 24.)

Litigation

Fiscal year 2010-2011 culminated in increased court litigation¹ for PERB. Specifically, 93 litigation-related assignments were completed by PERB attorneys (compared to approximately 90 last fiscal year and 75 the year before). A total of 30 litigation cases, including new and continuing cases, were handled during the 2010-2011 fiscal year (compared to 24 last fiscal year and 23 the year before). A summary of these cases is included in the Appendices, beginning at page 56.

Representation Activity

For fiscal year 2010-2011, 70 new representation petitions were filed, a decrease of 31 cases when compared to the prior year. The fiscal year total includes 18 recognition petitions, 7 severance requests, 2 petitions for certification, 14 decertification petitions, 3 requests for amendment of certification, 24 unit modification petitions, and 2 fair share fee (agency shop) rescission petitions.

Election activity increased slightly, with 11 elections conducted compared to 10 in the prior year. The 11 elections conducted by PERB during the fiscal year included 7 decertification elections, and 4 fair share or agency fee rescissions elections. More than 2300 employees were eligible to participate in these elections, in bargaining units ranging in size from 13 to 1387.

Mediation/Factfinding/Arbitration

During the 2010-2011 fiscal year, PERB received 111 mediation requests and 40 factfinding requests. The number of mediation requests filed with PERB decreased over the prior year (173 such requests were filed in 2009-2010). The number of factfinding requests increased (35 requests were filed in 2009-2010, 27 requests were filed in 2008-2009, and 26 requests were filed in 2007-2008).

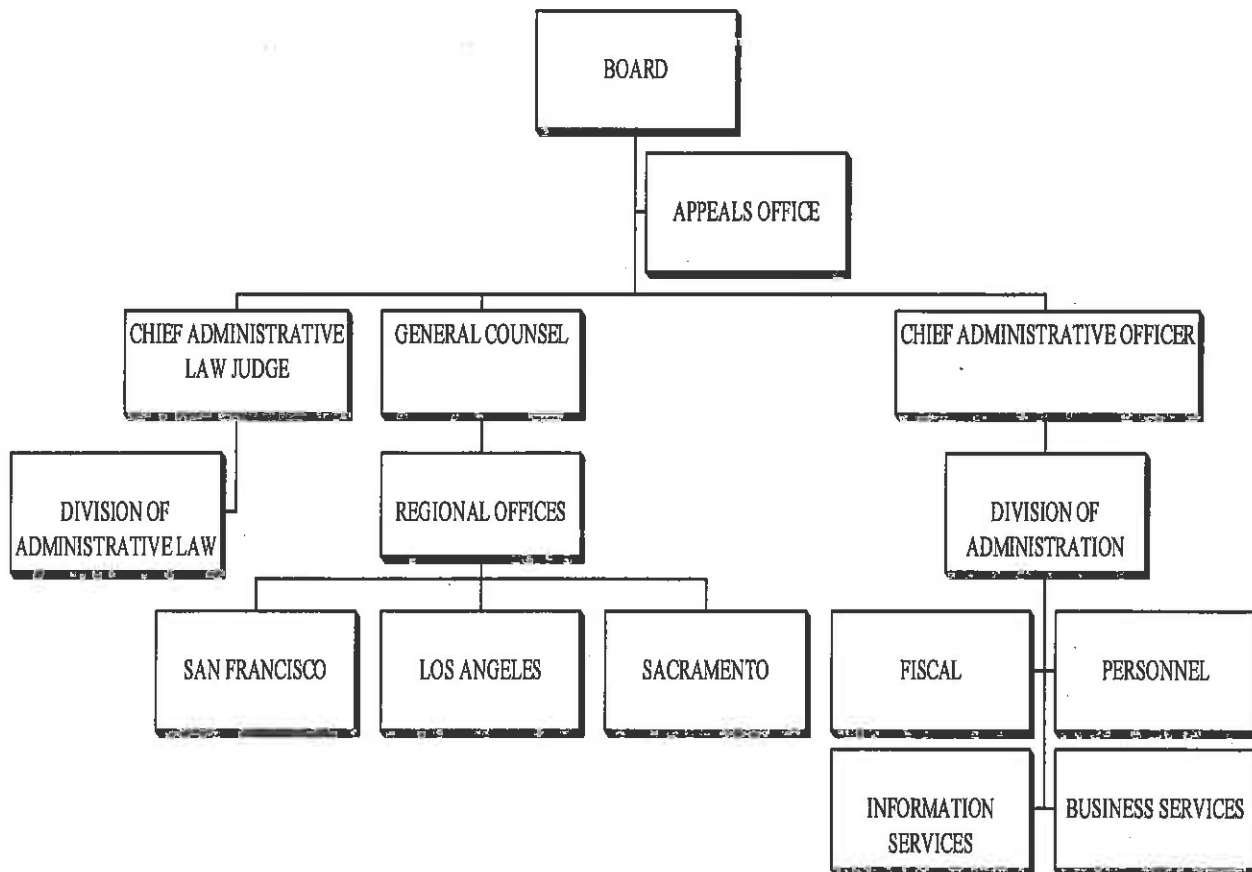
Compliance

PERB staff commenced compliance proceedings regarding 9 unfair practice cases, in which a final decision resulted in a finding of a violation of the applicable statute.

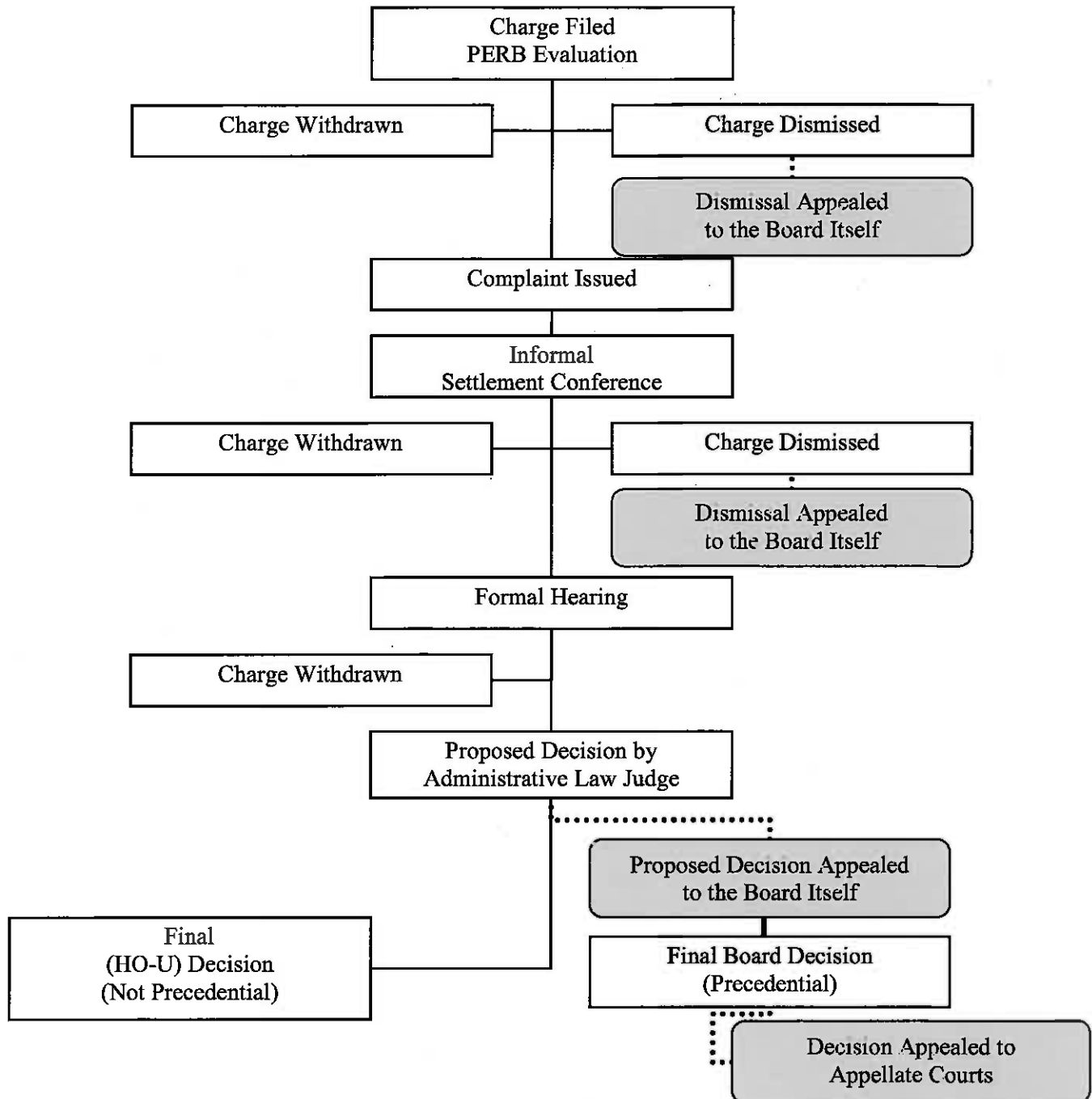
¹ PERB's court litigation primarily involves: (1) injunctive relief requests to immediately stop unlawful actions at the superior court level; (2) defending decisions of the Board at the appellate level; and (3) defending the Board's jurisdiction in all courts in the State, including the California Supreme Court. Litigation consists of preparing legal memoranda, court motions, points and authorities, briefs, stipulations, judgments, orders, etc., as well as making court appearances.

V. APPENDICES

PUBLIC EMPLOYMENT RELATIONS BOARD
Organizational Chart



UNFAIR PRACTICE CHARGE FLOW CHART



2010-2011 UNFAIR PRACTICE CHARGE STATISTICS

I. Unfair Practice Charges Filed by Region

Region	Total
Sacramento	183
San Francisco	246
Los Angeles	315
Total	744

II. Unfair Practice Charges Filed by Act

Act	Total
Dills Act	61
EERA	276
HEERA	78
MMBA	315
TEERA	1
Trial Court Act	11
Court Interpreter Act	2
Non-Jurisdictional	0
Total	744

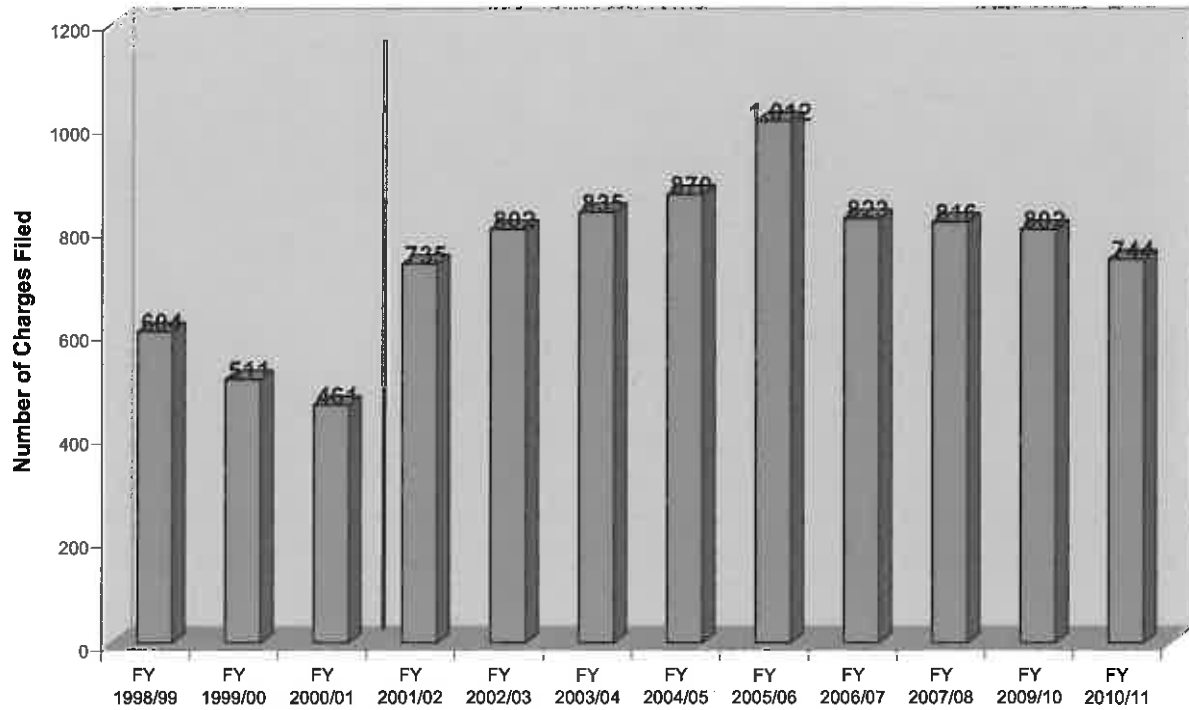
III. Prior Year Workload Comparison: Charges Filed

	2007/2008	2008/2009	2009/2010	2010/2011	4-Year Average
Total	816	869	802	744	808

IV. Unfair Practice Charge Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	87	66	84	237
San Francisco	82	100	117	299
Los Angeles	116	112	120	348
Total	285	278	321	884

Unfair Practice Charge Filings



Notes: The vertical line illustrates when MMBA jurisdiction took effect (July 1, 2001).
 (In Fiscal Year 2004-2005, the total number of charges filed (1126) was adjusted to discount 256 nearly identical charges filed by a single group of employees and in Fiscal Year 2001-2002 the total number (935) was reduced by 200 for a similar set of filings.)

2010-2011 REQUESTS FOR INJUNCTIVE RELIEF (IR)

I. Prior Year Workload Comparison: IR Requests Filed

	2007/2008	2008/2009	2009/2010	2010/2011	4-Year Average
Total	28	19	13	16	19

2010-2011 REPRESENTATION CASE ACTIVITY

I. Case Filings and Disposition Summary

Case Type	Filed	Closed
Request for Recognition	18	18
Severance	7	12
Petition for Certification	2	7
Decertification	14	15
Amended Certification	3	6
Unit Modification	24	30
Organizational Security	2	4
Arbitration	0	0
Mediation	111	116
Factfinding	40	37
Compliance	9	16
Totals	230	261

II. Prior Year Workload Comparison: Cases Filed

	2007-2008	2008-2009	2009-2010	2010-2011	4-Year Average
Fiscal Year	297	276	323	230	282

III. Elections Conducted

Amendment of Certification	0
Decertification	7
Fair Share Fee Reinstatement	0
Fair Share Fee/Agency Fee Rescission	4
Representation	0
Severance	0
Unit Modification	0
Total	11

Elections Conducted: 7/1/2010 to 6/30/2011

<i>Case No.</i>	<i>Employer</i>	<i>Unit Type</i>	<i>Winner</i>	<i>Unit Size</i>
<i>Decertification</i>		<i>Subtotal:</i>	<i>7</i>	
SF-DP-00295-M	HAYWARD AREA RECREATION & PARK DISTRICT	General	SEIU Local 1021	72
LA-DP-00377-E	FAMILY PARTNERSHIP CHARTER SCHOOL	All Certificated Less Other Group	Family Partnership Charter TA	13
SA-DP-00234-E	ATWATER ELEMENTARY SCHOOL DISTRICT	Office Technical/Operations, Support Services	CSEA Chapter 846	104
LA-DP-00378-E	TORRANCE USD	Operations, Support Services	SEIU Local 99	273
SF-DP-00299-E	SONOMA COUNTY JUNIOR COLLEGE DISTRICT	All Certificated Less Other Group	All Faculty Association	1387
SF-DP-00298-E	WEST VALLEY-MISSION CCD	Office Technical/Business Services	West Valley-Mission Classified Employees Assn.	218
SF-DP-00300-E	WEST VALLEY-MISSION CCD	Operations, Support Services	West Valley-Mission Classified Employees Assn.	54
<i>Organizational Security - Rescission</i>		<i>Subtotal:</i>	<i>4</i>	
SA-OS-00143-E	SPRINGVILLE UnESD	Wall Certificated	Fair share fee not rescinded	16
SA-OS-00144-C	SUTTER COUNTY SUPERIOR COURT	General and Professional	Agency fee not rescinded	53
LA-OS-00219-M	CITY OF WASCO	General	Agency fees not rescinded	52
SF-OS-00197-M	CITY & COUNTY OF SAN FRANCISCO	Painters	Agency fee rescinded	111
<i>Total Elections:</i>		<i>11</i>		

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2101a-H	Coalition of University Employees v. Regents of the University of California (Davis)	The Board partially granted the petitioning party's request for reconsideration.	The Board held that reconsideration was appropriate for the purpose of conforming the Board's order with its decision. On reconsideration, the Board clarified that its order in the underlying case was limited to the three specific positions addressed in Case Nos. SA-CE-246-H, SA-CE-247-H and SF-CE-795-H and not all positions allegedly vacated or eliminated due to the University's interpretation of Article 2E.
2106a-S	California Correctional Peace Officers' Association v. State of California (Department of Personnel Administration)	The Union alleged the State discriminated against and interfered with the rights of Union members when the State provided non-union members with State dental benefits after the Union removed the non-Union members from the Union's dental plan.	The Board found the Union's charge stated a prima facie case but declined to determine whether the State's actions were justified until an evidentiary hearing is held.
2123-S	Union of American Physicians and Dentists v. State of California (Department of Personnel Administration)	UAPD alleged that the State discriminated against its members for opposing the Governor's campaigns, and interfered with employee rights, by furloughing bargaining unit members but not furloughing contract physicians.	The Board affirmed the Board agent's dismissal of the charge. The Board found the charge failed to state a prima facie case of discrimination because it did not allege any specific protected activity by UAPD bargaining unit members and the furloughs were not imposed close in time to the alleged protected activity. The Board further found the charge failed to state a prima facie case of interference because it alleged no facts showing the furloughs would tend to encourage State employee physicians to become contract physicians.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2124	Leonard G. Isenberg v. Los Angeles Unified School District	The Board upheld a dismissal by an administrative law judge of a complaint and underlying unfair practice charge in which the charging party alleged the District violated EERA by not selecting him for a technical services coordinator position in retaliation for his protected activities.	The Board held the charging party failed to establish a nexus between his protected conduct and the District's refusal to hire him for the position. Accordingly, the Board found the charging party failed to establish a prima facie case of unlawful discrimination.
2125-M	Service Employees International Union, Local 521 v. County of Fresno	The Union alleged that the County unilaterally changed its mandatory furlough policy it imposed furloughs on bargaining unit members.	The Board affirmed the Board agent's dismissal finding that the Union failed to provide facts showing a change in policy. The ALJ held that the mandatory furlough policy was the unambiguous controlling policy.
2126	Kenneth Meredith v. Grossmont Union High School District	The complaint alleged the District rejected Meredith on probation because he wrote a letter to the principal and asked for Union representation during a meeting with management.	The Board affirmed the ALJ's dismissal of the complaint. The Board held that Meredith failed to establish a prima facie case of retaliation because his own allegations showed that the District had decided to reject him on probation before he engaged in protected activity.
2127	Douglas W. Scott v. Mount Diablo Education Association	The complaint alleged that the Association breached its duty of fair representation by not filing grievances on Scott's behalf, not appealing grievances in a timely manner, and failing to communicate with Scott.	The Board affirmed the ALJ's dismissal of the complaint. The Board held that, while the Association's handling of Scott's personnel issues may have been negligent at times, its overall pattern of conduct was one of assistance.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2128	Kimy L. Gibson v. California School Employees Association & its Chapter 168	The Board upheld the dismissal of an unfair practice charge by a Board agent in which the charging party alleged the California School Employees Association & its Chapter 168 violated EERA by settling grievances filed on the charging party's behalf without obtaining her consent.	The Board held that the charging party failed to plead sufficient facts to demonstrate the Union's conduct was arbitrary, discriminatory or in bad faith.
2129	Sacramento City Unified Teachers Association v. Sacramento City Unified School District	The charge alleged that the District removed a substitute teacher's name from its list of active substitutes because the teacher prevailed on several grievances.	The Board reversed the Board agent's dismissal of the charge and remanded for a complaint. The Board held that the charge stated a prima facie case of retaliation because the District removed the substitute teacher from the active list five weeks after grievances were resolved in his favor, the District administrator who handled grievances also controlled the active list, and the District exaggerated the facts surrounding the incident cited to justify removal.
2130-S	California Correctional Peace Officers Association v. State of California (Department of Personnel Administration)	The complaint alleged that DPA bargained in bad faith by: (1) implementing its last, best, and final offer (LBFO) for a three-year term; and (2) failing to implement a union release time provision contained in the LBFO.	The Board affirmed the ALJ's dismissal of the complaint. The Board held that DPA did not implement the term of agreement provision in the LBFO. The Board also held that CCPOA waived its right to file the union release time allegation by executing a written release time agreement with DPA that included an explicit waiver of future claims on the subject.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2131-S	California Correctional Peace Officers Association v. State of California (Department of Corrections and Rehabilitation, Ventura Youth Correctional Facility)	CCPOA alleged that CDCR unilaterally changed the training policy when it directed an employee to complete an on-line training assignment at home.	The Board affirmed the Board agent's dismissal of the charge finding that CCPOA did not establish that the conduct was more than an isolated breach of the contract.
2132-M	SEIU Local 721 v. County of Riverside	The complaint alleged that the County unilaterally changed its overtime compensation policy without providing SEIU with notice and an opportunity to bargain over the change or its effects.	The Board affirmed in part and reversed in part the ALJ's proposed decision. The Board held that the charge was untimely because SEIU knew approximately nine months before the charge was filed that the County intended to implement changes to its overtime compensation policy.
2133	James Frederick Tarvin v. United Faculty of Grossmont Cuyamaca Community College District	The Board upheld the dismissal of an unfair practice charge in which the charging party alleged his union violated EERA by failing to adequately represent him in the grievance process.	The Board held the charge was not timely filed. In addition, the Board held the charging party failed to plead sufficient facts to demonstrate that the Union breached its duty of fair representation.
2134-H	George Delgado v. Trustees of the California State University (San Marcos)	The Board dismissed an unfair practice charge in which the charging party alleged the University violated HEERA when it denied a request to pursue a grievance regarding the contracting out of maintenance work.	The Board held the charging party lacked standing to assert a claim that the University breached its duty to provide notice to SETC regarding the work. In addition, the Board held that even if the charging party had standing to assert such a claim, the University did not have a duty to provide such notice. Last, the Board held the charging party failed to state a prima facie case of interference.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2135-S	Scott F. Slotterbeck v. Service Employees International Union Local 1000	The charge alleged that SEIU unlawfully deducted the full amount of fair share fees from Slotterbeck's paycheck despite his requests to pay a reduced fee amount and/or challenge SEIU's calculation of the fair share amount.	The Board affirmed the Board agent's dismissal of the charge. Allegations that SEIU had unlawfully deducted the full fee amount in prior fiscal years were untimely and the charge did not allege that such deductions were made in the current fiscal year. Slotterbeck lacked standing to challenge the fair share fee amount because he had not exhausted SEIU's internal challenge procedure.
2136-S*	Patricia L. Woods v. State of California (Department of Corrections & Rehabilitation)	The complaint alleged that CDCR rejected Woods on probation because she enlisted the aid of her union regarding workplace issues.	The Board affirmed the ALJ's dismissal of the complaint. The Board held that Woods failed to establish a prima facie case that CDCR rejected her because of her union assistance and that CDCR established it would have rejected Woods based on her workplace behavior even if SEIU had not assisted her. The Board found no merit in Woods' claims of ALJ misconduct and transcript irregularities, and affirmed the ALJ's quashing of two subpoenas and exclusion of testimony by one of Woods' witnesses.
2136a-S	Patricia L. Woods v. State of California (Department of Corrections & Rehabilitation)	Woods requested reconsideration of <i>State of California (Department of Corrections & Rehabilitation)</i> (2010) PERB Decision No. 2136-S	The Board denied Woods' request for reconsideration because it did not establish either of the grounds for reconsideration set forth in PERB Regulation 32410(a).
2137-H	Corneliu Sarca v. CSU Employees Union, Local 2579	The charge alleged that CSUEU improperly calculated the fair share fee amount for fiscal year 2006-2007.	The Board affirmed the Board agent's dismissal of the charge. The Board held that Sarca lacked standing because he was not a fair share fee payer. The Board also held that CSUEU could lawfully cease requiring him to pay fair share fees and that the allegation it did so to prevent him from challenging the fee amount was untimely.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2138-M	Union of American Physicians & Dentists v. County of Orange	The complaint alleged that the County unreasonably applied its local rules to deny a petition to sever five classifications from the County's healthcare professionals bargaining unit.	The Board affirmed the ALJ's dismissal of the complaint. The Board held that the local rules' lack of a severance provision was not unlawful and that the rules' unit modification provision provided a reasonable equivalent to a severance procedure. The Board held the County lawfully denied the severance petition because UAPD was not a verified employee organization when the petition was filed. It also held that UAPD lacked standing to challenge the application of the rules' decertification provision because it never intended to decertify the existing bargaining unit's incumbent union.
2139-M	Alhambra Firefighters Association, Local 1578 v. City of Alhambra	The charging party alleged that the City unilaterally changed the minimum qualifications for the fire captain classification.	The Board held the charging party failed to establish the change had a significant and adverse effect, finding the matter not negotiable.
2140-H	Ron Williams & Patrick Pelonero v. Trustees of the California State University (San Marcos)	The charge alleged that CSU failed to bargain with charging parties' union; failed to follow grievance timeliness; retaliated against charging parties for filing a grievance and the charge; and settled Pelonero's grievances without his consent.	The Board affirmed the Board agent's dismissal of the charge. The Board held that charging parties lacked standing to allege failure to bargain and unilateral change in policy. The Board found no connection between the grievance or charge and CSU's actions, which were not adverse. The Board held that CSU did not need Pelonero's consent to settle his grievances.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2141-M*	City of San Jose v. Association of Building, Mechanical and Electrical Inspectors	The complaint alleged that ABMEI engaged in unlawful picketing of private construction sites during a strike against the City.	The Board reversed the ALJ's proposed decision and held that ABMEI engaged in unlawful picketing. The Board held that picketing of private construction sites by building inspectors, which resulted in a complete cessation of work at the sites, was an unlawful pressure tactic.
2142-M	City of Lodi v. Lodi Professional & Technical Employees v. AFSCME Local 146	The Board affirmed the dismissal of a severance petition by which the petitioner sought to sever approximately ten employees in eleven classes in the City's general services unit.	The Board held the petition failed to establish that its proposed unit possessed a community of interest that was separate and distinct from the other employees in the general services unit.
2143-M	Amalgamated Transit Union Local 1704 v. Omnitrans	The Union alleged that Omnitrans bypassed the Union by conducting a focus group for the purpose of developing changes to shift bid procedures. The charge further alleged that Omnitrans unilaterally changed the parties' grievance procedure when it refused to process a grievance filed by the Union in its own name.	The Board upheld the ALJ's finding that Omnitrans illegally bypassed the Union. The Board reversed the ALJ's dismissal of the unilateral change allegation regarding the grievance procedure and found a violation.
2144-M	Turlock Emergency Medical Services Association v. West Side Healthcare District	Charging party alleged that the West Side Healthcare District unilaterally changed policies without providing notice and an opportunity to bargain, and by engaging in surface bargaining.	The Board dismissed the charge finding that charging party failed to include facts setting forth the original policies or procedures and/or how the new procedures were different from the original policies.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2145-M	SEIU-United Healthcare Workers West Local 2005 v. West Contra Costa Healthcare District; SEIU-United Healthcare Workers West Local 2005 v. National Union of Healthcare Workers; West Contra Costa Healthcare District and National Union of Healthcare Workers and SEIU-United Healthcare Workers West Local 2005	Four cases consolidated. Two complaints alleged that the District interfered with SEIU-UHW's access rights during a decertification election. One complaint alleged that NUHW interfered with SEIU-UHW's rights by circulating a flyer instructing employees to give their ballots to a NUHW steward. SEIU-UHW filed objections to the results of an election decertifying SEIU-UHW as the exclusive representative of a bargaining unit of District employees.	The Board affirmed the ALJ's dismissal of the complaints and election objections. The Board held the District did not impose new access restrictions or interfere with SEIU-UHW's existing access rights. The Board held that NUHW's flyer did not interfere with SEIU-UHW's rights because employees had ample means before the election of learning the correct procedure for returning ballots. Neither the District's nor NUHW's conduct interfered with employee free choice in the election.
2146-M	Eric Lee Gallardo v. International Brotherhood of Electrical Workers, Local 1245	Charging party alleged that the Union violated the duty of fair representation by refusing to pursue his grievance, and refusing to provide a written statement regarding a grievance meeting between charging party, his supervisor, and the Union job steward.	The Board dismissed the charge, finding that the charging party failed to demonstrate that the Union's actions were arbitrary, discriminatory or in bad faith.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2147	Leroy Jessie Martinez v. Fontana Unified School District	The Board affirmed the dismissal of an unfair practice charge in which the charging party alleged the District violated EERA by: (1) retaliating against him for engaging in protected conduct; (2) unlawfully maintaining personnel records; (3) negotiating in bad faith and (4) breaching an unwritten settlement agreement for an undisclosed amount of backpay.	The Board held the charging party failed to plead sufficient facts to establish a prima facie case of unlawful retaliation.
2148-M	Engineers Society v. Santa Clara Valley Water District	The charge alleged that the District refused to arbitrate a grievance filed by the Society.	The Board granted the parties' request to withdraw the appeal and underlying unfair practice charge.
2149	Anatoliy Strygin v. United Teachers of Los Angeles	Charging party alleged that the Union violated the duty of fair representation when it failed to respond to charging party's inquiries for approximately two months and failed to timely assist charging party with filing a grievance.	The Board affirmed the Board agent's dismissal, finding that the charging party failed to demonstrate that the Union's actions were arbitrary, discriminatory or in bad faith.
2150	Anna M. Thomas v. United Teachers of Los Angeles	Charging party alleged that the Union violated the duty of fair representation by refusing to pursue her grievance.	The Board affirmed the Board agent's dismissal, finding that the charge was untimely.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2151-H	International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, AFL-CIO, & its Local Union 4123 v. Trustees of the California State University	Charging party alleged that the University made a misrepresentation of fact to a factfinding panel, and failed to provide requested information.	The Board affirmed the Board agent's dismissal finding that the information request allegation was not timely filed, and that the single allegation of misrepresentation is insufficient to establish a prima facie case of bad faith bargaining.
2152-S	International Union of Operating Engineers, Unit 12 v. State of California (Department of Personnel Administration)	Charging party alleged violation of the Dills Act when the State implemented a furlough plan.	The Board affirmed the Board agent's dismissal based on the California Supreme Court's finding that the Legislature ratified the Governor's furlough plan when it adopted the Budget Act.
2153-H	Yi-Kuang Liu v. Regents of the University of California	The charge alleged that the University discriminated against the charging party by terminating his employment, breaching his employment contract, defaming his character, and misrepresenting his scholarly/academic efforts.	The Board upheld the dismissal of the charge, finding the charging party did not establish he engaged in protected activity. The remaining allegations were dismissed as outside PERB's jurisdiction.
2154-S	California Correctional Peace Officers Association v. State of California (Department of Corrections & Rehabilitation)	The Board dismissed an unfair practice charge in which charging party alleged CDCR violated the Dills Act when it unilaterally removed retired annuitants from State Bargaining Unit 6 (BU 6) and refused to comply with a contractual obligation to withhold fair share fees from their paychecks.	The Board held retired annuitants were never included in BU 6 and, therefore, were not unlawfully removed from BU 6 by CDCR. In addition, the Board held that since retired annuitants were not in BU 6, the State did not have a duty to collect agency fees from retired annuitants on behalf of the charging parties.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2155-M	Kurt Hitchcock v. County of Orange	The Board affirmed the dismissal of an unfair practice charge in which the charging party alleged the County violated the MMBA when it denied him the opportunity to participate in an arbitration.	The Board held that since the charging party did not have a right to arbitration, the County's denial of arbitration did not constitute unlawful interference. In addition, the Board held the charging party failed to plead sufficient facts to establish unlawful retaliation. Last, the Board held the charging party's employment termination claim was not timely filed.
2156-S	California Correctional Peace Officers Association v. State of California (Department of Corrections & Rehabilitation, Corcoran State Prison)	The charge alleged that CDCR violate the Dills Act by negotiating bidding status of new positions at a meeting without the CCPOA chapter president in attendance.	The Board affirmed the Board agent's partial dismissal of the charge. The Board held that the meeting did not interfere with the chapter president's or CCPOA's rights, and that CCPOA failed to establish that bidding status of new positions had ever been negotiated with the chapter president.
2157	Lynette Lucas v. Rio Teachers Association	The charge alleged that the Union breached its duty of fair representation when it failed to provide financial reports for the prior nine years.	The Board affirmed the dismissal of the charge as untimely filed.
2158-M	Operating Engineers Local Union No. 3 v. City of Hughson	The charge alleged that the City unilaterally changed a policy when it refused to compensate an employee for performing out-of-class work.	The Board granted the parties' joint request to withdraw the appeal and the charge after they settled their dispute.
2159	Diane R. Bonner v. Charter Oak Unified School District	The charge alleged that the Charter Oak Unified School District violated EERA by forcing charging party into retirement in retaliation for protected activity.	The Board upheld the dismissal of the charge on the ground that it was untimely filed and failed to state a prima facie violation of EERA.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2160	SEIU Local 1021 v. Sonoma County Office of Education	The charge alleged that SCOE made an unlawful unilateral change by deducting the amount of health benefits premium increase from employee paychecks.	The Board affirmed the Board agent's dismissal of the charge. The expired collective bargaining agreement required SCOE to make a particular contribution toward health benefits premiums; it did not require SCOE to maintain a certain level of health benefits. Thus, SCOE did not alter the status quo by failing to pay the premium increase.
2161-M*	Dion Salas v. City of Alhambra	The complaint alleged that the City rejected Salas on probation because he made protected complaints about working conditions.	The Board reversed the ALJ's proposed decision and held that the City did not retaliate against Salas because of protected activity. The Board found that Salas' complaints were not protected because they were for his sole benefit and that the City would have rejected him on probation despite the complaints based on his inability to get along with his supervisor and co-workers and his expressed unwillingness to work at the required level.
2162-S*	California Department of Forestry Firefighters v. State of California (Department of Forestry & Fire Protection)	The Board dismissed an unfair practice charge in which that charging party alleged the State violated the Dills Act when it failed to withhold fair share fees for retired annuitants employed in State Bargaining Unit 8 (BU 8).	The Board held that retired annuitants performing work associated with BU 8 were not automatically placed in BU 8 by operation of the State Unit Determination case. In addition, the Board held that since retired annuitants were not in BU 8, the State did not have a duty to collect fair share fees on behalf of the charging parties.
2163-M*	Service Employees International Union, Local 721 v. County of Riverside	The complaint alleged that the County unlawfully denied SEIU's petitions to add unrepresented per diem employees to three existing bargaining units.	The Board affirmed the ALJ's finding of a violation. The Board found that the County unreasonably applied its local rules when it: (1) required a showing of majority support among the employees to be added; and (2) denied SEIU's modified petitions as untimely.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2164-M	SEIU-United Healthcare Workers West Local 2005 v. West Contra Costa County Healthcare District	The charge alleged that the District violated the MMBA and PERB Regulations when, during a decertification election period, a lead employee circulated and solicited employee signatures on a petition criticizing SEIU's activities and requested that the District restrict SEIU's access to bargaining unit employees.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the MMBA.
2165-M*	Darrell J. Moore, Sr. v. American Federation of State, County and Municipal Employees, Council 36	The charging party alleged the Union breached its duty of fair representation when it failed to represent him and failed to investigate his employment issues.	The Board affirmed the Board agent's dismissal of the charge as untimely.
2166-M*	Darrell J. Moore, Sr. v. Housing Authority of the City of Los Angeles	Charging party alleged that the employer retaliated against him and interfered with his rights when it refused to allow him to return to work following medical leave and denied him union representation.	The Board affirmed the Board agent's dismissal finding the retaliation claim untimely and that the interference allegation failed to demonstrate a prima facie case.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2167-M	Dennis Dale Hayes v. Antelope Valley Hospital District	The charge alleged that the District violated the MMBA by failing to provide charging party with a mediator in connection with grievances filed by him, retaliating against him for "promoting" a rival labor organization, failing to provide him with requested information, and failing to adequately process his grievances.	The Board upheld the dismissal of the charge, finding that the charge was untimely filed and failed to state a prima facie case.
2168-M	Dennis Dale Hayes v. SEIU-United Healthcare Workers West Local 2005	The charge alleged that the SEIU-United Healthcare Workers West Local 2005 violating its duty of fair representation under the MMBA connection its handling of grievances filed by charging party.	The Board upheld the dismissal of the charge for failure to state a prima facie case.
2169-M	Michael Crandell v. Service Employees International Union, Local 1021	The charge alleged that SEIU breached its duty of fair representation by failing to grieve Crandell's termination or represent him before the civil service commission.	The Board affirmed the Board agent's dismissal of the charge. The Board found that the allegation that SEIU failed to grieve Crandell's termination was untimely and that SEIU had no duty to represent him before the civil service commission.
2170-M	Service Employees International Union, Local 620 v. City of Guadalupe	The charge alleged that the City made an unlawful unilateral change by imposing furlough days on employees without reaching agreement with SEIU.	The Board affirmed the Board agent's dismissal of the charge. The Board deferred to the binding decision of the personnel commission because its proceedings were essentially binding arbitration, the commission considered all evidence relevant to the unfair practice charge, and the decision was not repugnant to the MMBA.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2171*	Fallbrook Elementary Teachers Association v. Fallbrook Union Elementary School District	The Board dismissed an unfair practice charge in which the charging party alleged the District violated EERA when it retaliated against an employee because of her activities as a union site representative.	The Board held the charging party failed to establish a nexus between her protected conduct and the District's adverse action. Accordingly, the Board concluded the charging party failed to plead sufficient facts to establish a prima facie case of unlawful retaliation.
2172-M	Ron Scholink v. Service Employees International Union – United Healthcare Workers West, Local 2005	The charge alleged that SEIU breached its duty of fair representation by entering into a letter of agreement with Scholink's employer that required him to obtain and maintain a particular certification as a condition of continued employment.	The Board affirmed the Board agent's dismissal of the charge. The Board found the charge untimely and rejected Scholink's claim on appeal that the date alleged in the charge for when he first learned of the agreement was incorrect.
2173-M	Sonoma County Law Enforcement Association v. County of Sonoma	The charge alleged that the County violated the MMBA by unilaterally changing the manner in which retiree health insurance contributions are calculated and failing to give the Association notice and an opportunity to meet and confer over the decision to implement the change in policy and/or the effects of the change in policy.	The Board dismissed the complaint, finding that charging party did not meet its burden of proving a unilateral change in an established past practice.
2174-M	Karen Bruno v. County of Contra Costa	The charge alleged that the County violated the MMBA when it laid charging party off in retaliation for having engaged in protected activity.	The Board upheld the partial dismissal of the charge for failure to state a prima facie violation of the MMBA.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2175-H	Valinda Kyrias v. CSU Employees Union, SEIU Local 2579	The charge alleged that CSUEU breached its duty of fair representation, retaliated against Kyrias, and interfered with her rights when it failed to file a timely request for arbitration of Kyrias' grievance.	The Board affirmed the Board agent's dismissal of the charge. The Board found the charge untimely because Kyrias knew more than six months before the charge was filed that CSUEU had failed to file a timely arbitration request.
2176-M	Committee of Interns & Residents/Service Employees International Union v. County of Riverside	The complaint alleged that the County unlawfully refused to register CIR/SEIU as an employee organization under the County's local rules.	The Board reversed the ALJ's proposed decision and dismissed the charge as untimely because CIR/SEIU knew more than six months before the charge was filed that the County had refused to register it. No continuing violation found because the employer merely reiterated its position on later occasions.
2177-H	Coalition of University Employees v. Regents of the University of California (Irvine)	The charge alleged that the University discriminated against CUE-represented employees and interfered with their rights by paying a bonus only to non-represented employees and communicating the bonus via email and a website posting.	The Board affirmed the Board agent's dismissal of the charge. The Board held that granting a benefit exclusively to non-represented employee is not per se discrimination or interference, and that the charge failed to allege any additional facts to show that the bonus payment could harm employee rights. The Board further held that the communications were not coercive because they did not contain a threat or a promise of benefit.
2178-S	State of California and IT Bargaining Unit 22 and SEIU Local 1000	A group of information technology employees filed a petition to sever a group of information technology classifications from State Bargaining Unit 1 (Professional, Administrative, Financial, and Staff Services).	The Board dismissed the petition because the petitioner failed to establish that the proposed unit was more appropriate than the existing unit.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2179-I	California Federation of Interpreters Local 39521 v. Los Angeles Superior Court	The Board granted the withdrawal of an unfair practice charge in which the charging party alleged the Court violated the Trial Court Interpreter Act when it took adverse action against an employee in retaliation for her protected activities.	The Board held the withdrawal was in the best interests of the parties and consistent with the purposes of Trial Court Interpreter Act.
2180	Coalinga-Huron Joint Unified School District v. Coalinga-Huron Teachers Association	The Board granted the withdrawal of a petition for unit modification that sought the inclusion of school psychologists into the District's certificated bargaining unit.	The Board held the withdrawal was in the best interests of the parties and consistent with the purposes of EERA.
2181-M	Shawn Terris v. County of Santa Barbara	The Board upheld the dismissal of an unfair practice charge in which the charging party alleged County violated the MMBA by retaliating against her for exercising her protected rights to seek support for an employee organization.	The Board held the charging party lacked standing before PERB because she was currently employed in a County position designated as a management classification. In addition, the Board held the mis-designation of her position should have been challenged under the unit modification procedures contained in the County's Employer-Employee Relations Policy and not under PERB's unfair practice procedures.
2182-M	Lina Rosa v. California Nurses Association	The charge alleged that CNA breached its duty of fair representation by failing to adequately represent Rosa in matters concerning her employment.	The Board upheld the dismissal of the unfair practice charge because the charge failed to establish that the Union's actions were arbitrary, discriminatory or in bad faith, or that its conduct extinguished employee's right to pursue other claims.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2183	Orcutt Elementary School District v. Orcutt Education Association	A school district filed a unit modification petition to add charter school certificated employees and teachers to an existing bargaining unit of all certificated employees in the district.	The Board granted the petition, finding that the charter school employees shared a sufficient community of interest with the non-charter school employees to warrant inclusion in the same bargaining unit.
2184-M	Devin Stewart Whitney v. County of Riverside	The charge alleged that the County rejected Whitney on probation in retaliation for having sought union assistance in resolving workplace issues.	The Board upheld the dismissal of the complaint because the evidence failed to establish that the decision to reject the employee on probation was motivated by his protected activity.
2185-H	Regents of the University of California v. Coalition of University Employees	The Board affirmed a proposed decision by an ALJ that granted a petition for unit modification filed by the University that sought to remove certain positions from the systemwide clerical and allied services bargaining unit (CX Unit) and denied a petition for unit modification filed by CUE that sought to modify the CX Unit to ensure that the duties performed by the incumbents in the disputed positions were appropriately assigned to classifications within the CX Unit.	The Board held the 14 positions at issue shared a greater community of interest with employees in non-clerical bargaining units and, therefore, were properly reclassified in positions outside of the CX Unit.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2186-M	Elaine Chow v. SEIU Local 521	The charge alleged that SEIU Local 521 breached its duty of fair representation by failing to adequately assist charging party in resolving a perceived hostile work environment.	The Board upheld the dismissal of the charge for failure to establish a prima facie violation of the duty of fair representation.
2187	Albert Anthony Perez v. California School Employees Association & its Chapter 746	The charge alleged that CSEA breached its duty of fair representation by failing to adequately represent Perez in resolving a grievance filed on his behalf with the Downey Unified School District.	The Board upheld the dismissal of the charge for failure to file a timely appeal and failure to comply with PERB regulations governing the contents of an appeal from dismissal.
2188-M	Jocelyn Jacala v. Service Employees International Union, Local 1021	The Board affirmed the dismissal of an unfair practice charge in which the charging party alleged SEIU breached its duty of fair representation when it failed to respond to requests for a <i>Weingarten</i> representative and for assistance regarding a demotion, discipline and supervisor harassment.	The Board held the charging party failed to demonstrate that SEIU's conduct was arbitrary, discriminatory or in bad faith.
2189	John Bussman v. Alvord Educators Association	The Board affirmed the dismissal of an unfair practice charge in which the charging party alleged the Association violated EERA when it failed to represent him, retaliated against him, and defamed him.	The Board held the charge was not timely filed. In addition, the Board held the duty of fair representation does not apply to extra-contractual forums. Therefore, the Association did not breach its duty of fair representation by failing to respond to the charging party's requests to represent him in litigation against the District over perceived violations of the California Education Code.

2010-2011 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2190-M*	Service Employees International Union, Local 1021 v. City of Redding	The Board affirmed a proposed decision by an ALJ that found the City violated the MMBA when it refused to provide SEIU with a copy of an investigative report.	The Board held that the report in question was presumptively relevant and subject to disclosure, unless otherwise precluded by law. In addition, the Board held the City failed to justify withholding the report on confidentiality grounds. Last, the Board held that, although the report was subject to disclosure, all employee names and other identifying information in the report must be redacted.

*Judicial review of Board decision pending.

2010-2011 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-384*	Castaic Union School District and California School Employees Association & Its Chapter 401	CSEA filed a unit modification petition to add noon-duty aides to the District's classified employee bargaining unit.	The Board dismissed the petition. The Board held that noon-duty aides do not have representation rights under EERA because they are excluded by statute from the classified service. The Board also held that the record failed to establish a community of interest between the noon-duty aides and employees in the classified unit.
Ad-385	Compton Unified School District v. Compton Unified School District Police Management Police Officers Association v. Service Employees International Union, Local 99	The Board upheld the dismissal of a severance petition by which the petitioner sought to sever police department supervisors from their current bargaining unit and to create a new six person unit of supervisors represented by the Association.	The Board held the charge was not timely filed.
Ad-386-M	County of Orange and Union of American Physicians & Dentists and Orange County Employees Association	UAPD filed a petition to sever five classifications from the County's healthcare professionals bargaining unit.	The Board affirmed the ALJ's denial of the petition. The Board held that PERB lacked jurisdiction over the petition because the County had an applicable local rule.

2010-2011 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-387-M	Salinas Valley Memorial Healthcare System and National Union of Healthcare Workers and SEIU-United Healthcare Workers West Local 2005	SEIU-UHW filed objections to the results of an election to decertify SEIU-UHW and recognize NUHW as the exclusive representative of SVMHS employees.	The Board affirmed the Regional Director's dismissal of the objections. The Board held that none of the alleged unlawful conduct by SVMHS against SEIU-UHW supporters influenced, or had the potential to influence, employee free choice in the election. The Board also held that PERB's ruling on the objections did not have preclusive effect on a pending unfair practice charge alleging the same conduct by SVMHS.
Ad-388*	Victor Valley Community College District and Police Officers Association, Victor Valley Community College District – Police Department, and California School Employees Association and Its Chapter 584	Severance petition sought to create a new bargaining unit comprised of most, but not all, Campus Police officers and Campus Reserve Police Officers.	The Board dismissed the severance petition, finding that the employees sought to be included in the new unit had a community of interest with employees remaining in the existing unit, and the proposed unit would adversely affect the efficiency of operations of the employer.
Ad-388a*	Victor Valley Community College District and Police Officers Association, Victor Valley Community College District – Police Department, and California School Employees Association and Its Chapter 584	The police officers association requested that the Board reconsider its decision denying its petition to represent a unit of police officers employed by the District.	The Board denied the request for reconsideration as the Association failed to establish that the Board's decision contained prejudicial errors of fact.

2010-2011 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-389	Miguelina Villasenor v. National School District	The Board upheld an administrative determination rejecting an appeal as untimely.	The Board held the charging party failed to demonstrate that good cause existed to excuse her late-filed appeal.

*Judicial review of Board decision pending.

2010-2011 DECISIONS OF THE BOARD

JUDICIAL REVIEW REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
JR-25*	Castaic Union School District and California School Employees Association & its Chapter 401	CSEA requested reconsideration and judicial review of <i>Castaic Union School District</i> (2010) PERB Order No. Ad-384.	The Board denied CSEA's request for reconsideration because it did not establish either of the grounds for reconsideration set forth in PERB Regulation 32410(a). The Board joined the request for judicial review because the case presents an issue of special importance.

*Judicial review of Board decision pending.

2010-2011 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 585	Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. City of Sacramento	The Union filed a request for injunctive relief regarding proposed August 6, 2010 layoffs.	Request denied
I.R. 586	California Attorneys, Administrative Law Judges & Hearing Officers in State Employment v. State of California (Department of Personnel Administration)	On August 2, 2010, CASE filed a request for injunctive relief seeking to prohibit the State from implementing three furlough days per month for Bargaining Unit 2 members. The furloughs were ordered pursuant to the Governor's Executive Order S-12-10 and were set to commence on August 13, 2010.	Request denied
I.R. 587	California Attorneys, Administrative Law Judges & Hearing Officers In State Employment v. State of California (Department of Industrial Relations)	The Union filed a request for injunctive relief to prohibit unilateral implementation of DIR's telework changes.	Request denied
I.R. 588	IUOE Local 3 v. City of Santa Rosa	The Union filed a request for injunctive relief seeking to enjoin the City's alleged conduct concerning a 5 percent wage reduction.	Request denied

2010-2011 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 589	Transport Workers Union of America Local 250 v. City & County of San Francisco	The Union filed a request for injunctive relief seeking to enjoin the SF Municipal Transportation Agency's alleged changes to services/workforce, schedules, and absenteeism/sick-leave policies.	Request denied
I.R. 590	International Union of Operating Engineers, Stationary Engineers Local 39, AFL-CIO v. County of Yolo	The Union filed a request for injunction or stay of election to prohibit the County from conducting an election to potentially decertify the Union.	Request denied
I.R. 591	Kern County Probation Officers Association v. County of Kern	The Union filed a request for injunctive relief to prohibit the County from prematurely and improperly driving bargaining to impasse and to expedite implementation.	Request denied
I.R. 592	Siskiyou County Employees Association/AFSCME v. Siskiyou County Superior Court	The Union filed a request for injunctive relief to enjoin the Siskiyou County Superior Court and State Mediation and Conciliation Service from conducting a decertification election.	Request denied

2010-2011 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 593	National Union of Healthcare Workers v. Salinas Valley Memorial Hospital District	The Union filed a request for injunctive relief against the District to prohibit anticipated layoffs.	Request denied
I.R. 594	Santa Clara County Correctional Peace Officers' Association v. County of Santa Clara	The Union filed a request for injunctive relief against the County to prohibit, in part, newly implemented background checks of correctional officers.	Request denied
I.R. 595	Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. County of Yolo	The Union filed a request for injunctive relief against the County's alleged violation of its local rules when it approved a request for a unit modification of an existing unit.	Request denied
I.R. 596	SEIU Local 521, CTW v. City of Tulare	The Union filed a request for injunctive relief against the City's alleged violation of its local rules when it approved a decertification petition and planned to conduct a decertification election in an existing bargaining unit.	Request denied

2010-2011 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 597	Transport Workers Union, Local 200 v. City & County of San Francisco	The Union filed a request for injunctive relief against the City & County of San Francisco alleging a dispute regarding the existence and recognition of a new collective bargaining agreement.	Request denied
I.R. 598	SEIU Local 521 v. City of Tulare	SEIU alleges that the City of Tulare violated its local rules and PERB regulations relating to representation proceedings, when it provided the Union with only a partial listing of unit members' home addresses in advance of a scheduled decertification election.	Request withdrawn
I.R. 599	United Teachers of Los Angeles v. Los Angeles Unified School District	Whether LAUSD violated EERA by: (1) refusing to provide relevant information and bargain about a transfer of bargaining unit work at Jordan High School, and bargaining directly with unit members about the transfer of work; and (2) unilaterally implementing new performance evaluation procedures, and directly dealing with unit members about the new evaluation process.	Request denied

2010-2011 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 600	UPTE-CWA Local 9119 v. Regents of the University of California (San Diego)	Whether UC violated HEERA by unilaterally terminating paid union leave for two UPTE officers in the middle of an organizing drive and ordering them to return to new full-time positions at UC San Diego, ostensibly because the Union was delinquent in reimbursing UC for the Union leave in accordance with the parties' MOU.	Request withdrawn

2010-2011 LITIGATION CASE ACTIVITY

1. *International Association of Fire Fighters Local 188, AFL-CIO (IAFF) v. PERB; City of Richmond*, California Supreme Court Case No. S172377, California Court of Appeal, First Appellate District, Case No. A108875, Contra Costa County Superior Court Case No. N050232 (PERB Case No. SF-CE-157-M). Issue: Did PERB err in Decision No. 1720-M (adopting a Board Agent's dismissal of IAFF's charge, which alleged that layoffs are a negotiable subject of bargaining)? In January 2011, the Supreme Court held that when a city, faced with a budget deficit, decides that some firefighters must be laid off as a cost-saving measure, it is not required to meet and confer with the firefighters' authorized employee representative before making that initial decision, but is required to bargain with the employee representative as to the implementation and effects of the layoff decision. The Supreme Court further held that a determination by PERB not to issue a complaint is subject to judicial review, in limited circumstances, in a mandamus action in superior court. Case closed/completed.
2. *California Nurses Association (CNA) v. PERB; Regents of the University of California (UC)*, California Court of Appeal, First Appellate District, Case No. A127766 (PERB Case Nos. SF-CE-762-H, SF-CO-124-H). Issue: Did PERB err in Decision No. 2094-H (reversing an ALJ and ruling that CNA's conduct of threatening a one-day strike and engaging in preparations for that strike before completing statutory impasse procedures constituted an unfair practice because CNA failed to show that UC committed any unfair practice provoking the strike, remanding UC's charge against CNA to the ALJ to take evidence on the issue of UC's damages and make recommended findings of fact and conclusions of law solely on the issue of damages, and dismissing CNA's charge against UC)? CNA filed a petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) in March 2010. The Court of Appeal summarily denied the petition on October 7, 2010. Case closed/completed.
3. *California Correctional Peace Officers Association (CCPOA) v. PERB; State of California (Department of Personnel Administration)*, California Court of Appeal, Third Appellate District, Case No. C064817 (PERB Case No. SA-CE-1665-S). Issue: Did PERB err in Decision No. 2102-S (adopting an ALJ's dismissal of a charge, which alleged the State violated the Dills Act by failing/refusing to bargain despite "changed circumstances" after the parties reached impasse and State's last, best, and final offer was implemented in 2007)? CCPOA filed a petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) in April 2010. The Court of Appeal summarily denied the petition on January 28, 2011. Case closed/completed.
4. *California Correctional Peace Officers Association (CCPOA) v. PERB*, Alameda County Superior Court Case No. RG10517528; First Appellate District, Case No. A130294, (PERB Case No. SA-CE-1636-S). Did PERB err in Decision No. 2106-S (affirming a Board Agent's dismissal of allegation that State discriminated against CCPOA members in Bargaining Unit 6 by offering/providing dental benefits at a lower cost to BU 6 employees who are not CCPOA members than those offered/provided to BU 6 employees who are CCPOA members)? In May 2010, CCPOA filed a petition for writ of mandamus, which was granted by the superior court in September 2010. PERB filed a notice of appeal in November 2010. PERB filed a

request for dismissal of its appeal in February 2011. The superior court action was dismissed in June 2011. Case closed/completed.

5. *Coalition of University Employees, Teamsters Local 2010, IBT (CUE) v. PERB; Regents of the University of California*, Sacramento County Superior Court Case No. 010-80000574, California Court of Appeal, Third Appellate District, Case No. C067192 (PERB Case No. SF-CE-905-H). Issue: Should PERB be ordered to (1) make a determination in SF-CE-905-H; (2) increase the pay and duration involved in a fact-finding case between CUE and UC; and (3) stay any further fact-finding proceedings pending resolution of this case. In June 2010, CUE filed a petition for writ of mandamus, which was denied by the superior court in November 2010. CUE filed a notice of appeal in January 2011, and briefing is underway in the Court of Appeal. Case pending.

6. *PERB; Regents of the University of California (UC) v. AFSCME Local 3299*, San Francisco County Superior Court Case No. CGC08477392 (PERB Case No. SF-CO-168-H [IR Request No. 553]). Issue: Should AFSCME's failure to provide UC the exact dates of the planned Service Unit strike be enjoined, and should identified essential employees in the Patient Care Technical Unit be enjoined from honoring the Service Unit strike during working hours? A complaint for injunctive relief was filed in July 2008. The superior court granted the temporary restraining order—enjoining AFSCME-represented employees in the Service Unit and identified essential employees in the Patient Care Technical Unit from striking—and subsequently denied a preliminary injunction. PERB filed a request for dismissal of the action on July 25, 2011. Case closed/completed.

7. *PERB v. SEIU Local 521*, California Court of Appeal, Sixth Appellate District, Case No. H035006, Santa Clara County Superior Court Case No. 109CV153088 (PERB Case No. SF-CO-210-M [IR Request No. 576]). Issue: Should employees represented by Local 521 in the City of Palo Alto's General Unit be enjoined from participating in a threatened strike? A complaint for injunctive relief was filed in September 2009. The superior court granted a temporary restraining order—enjoining identified essential employees in the City's General Unit from participating during their working hours in the planned work action—and subsequently issued a preliminary injunction. SEIU filed a notice of appeal in November 2009. On March 23, 2011, the Court of Appeal issued an unpublished decision affirming the superior court order. The superior court action was dismissed on May 31, 2011. Case closed/completed.

8. *County of Riverside v. PERB; Brewington*, California Court of Appeal, Fourth Appellate District, Case No. E050056 (PERB Case No. LA-CE-261-M). Issue: Did PERB err in Decision No. 2090-M (affirming in large part an ALJ's finding and concluding that County violated the MMBA by retaliating against Brewington for protected activity and ordering the County to rescind Brewington's termination, offer him reinstatement plus restoration of benefits, and make him whole for financial losses suffered as a result of his termination)? The County filed a petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) in January 2010. The Court of Appeal summarily denied the petition on February 24, 2011. Case closed, pending compliance.

9. *Mendocino County Public Attorneys Association (MCPAA) v. PERB; County of Mendocino*, California Court of Appeal, First Appellate District, Case No. A128540 (PERB Case No. SF-CE-432-M). Issue: Did PERB err in Decision No. 2104-M (adopting an ALJ's dismissal of charge and complaint, which alleged that the County unilaterally ceased policy of granting a one-percent COLA and simultaneously sought to recoup related overpayments to employees in violation of the MMBA)? MCPAA filed a petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) in May 2010. The Court of Appeal summarily denied the petition on December 22, 2010. Case closed/completed.

10. *PERB; Regents of the University of California (UC) v. California Nurses Association (CNA)*, San Francisco County Superior Court Case No. CGC-10-500513 (PERB Case No. SA-CO-114-H [IR Request No. 583]). Issue: Should registered nurses represented by CNA in UC's Registered Nurse Bargaining Unit be enjoined from participating in a threatened one-day strike at UC's medical centers, facilities, and locations? A complaint for injunctive relief was filed in superior court in June 2010. In July 2010, the court granted PERB's request for a preliminary injunction, enjoining CNA-represented nurses in UC's Registered Nurse Bargaining Unit from striking during their working hours at UC's medical centers, facilities, "until the latest of: (i) the current collective bargaining agreement between CNA and UC expires; or (ii) all statutory impasse and fact-finding procedures under [HEERA] have been exhausted regarding the negotiations between CNA and UC for a successor agreement." Case pending.

11. *Siskiyou County Employees Association v. PERB; County et al.*, California Court of Appeal, Third Appellate District, Case No. C065476 (PERB Case Nos. SA-AC-63-M, SA-AC-64-C). Issue: Did PERB err in Decision No. 2113-M (affirming ALJ's dismissal of two petitions filed by SCEA to amend certification to reflect purported disaffiliation with SCEA/AFSCME)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. On August 12, 2010, the Court of Appeal granted SCEA/AFSCME's motion to dismiss the petition as untimely. Case closed/completed.

12. *Santa Clara County Correctional Peace Officers Association (SCCCPOA) v. PERB; County of Santa Clara*, California Court of Appeal, Sixth Appellate District, Case No. H035786 (PERB Case No. SF-CE-228-M). Issue: Did PERB err in Decision No. 2114-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. Briefing was completed in May 2011. Case pending.

13. *County of Santa Clara v. PERB; Santa Clara County Correctional Peace Officers Association (SCCCPOA)*, California Court of Appeal, Sixth Appellate District, Case No. H035791 (PERB Case No. SF-CE-228-M). Issue: Did PERB err in Decision No. 2114-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary

remedy was not appropriate)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. Briefing was completed in May 2011. Case pending.

14. *Santa Clara County Registered Nurses Professional Association (RNPA) v. PERB; County of Santa Clara*, California Court of Appeal, Sixth Appellate District, Case No. H035804 (PERB Case No. SF-CE-229-M). Issue: Did PERB err in Decision No. 2120-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. Briefing was completed in May 2011. Case pending.

15. *County of Santa Clara v. PERB; Santa Clara County Registered Nurses Professional Association (RNPA)*, California Court of Appeal, Sixth Appellate District, Case No. H035846 (PERB Case No. SF-CE-229-M). Issue: Did PERB err in Decision No. 2120-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. Briefing was completed in May 2011. Case pending.

16. *Amalgamated Transit Union Local 1704 (ATU) v. PERB; Omnitrans*, California Court of Appeal, Fourth District, Division Two, No E051345 (PERB Case No. LA-CE-358-M). Issue: Did PERB err in Decision No. 2121-M (reversing an ALJ and dismissing the complaint and charge against Omnitrans, finding that termination of coach operator Dale Moore did not constitute retaliation in violation of the MMBA because Omnitrans established it would have terminated Moore despite his protected activities as ATU president)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. The Court of Appeal summarily denied the petition on February 15, 2011. Case closed/completed.

17. *County of Riverside v. PERB; SEIU Local 721*, California Supreme Court Case No. S195567; Court of Appeal, Fourth Appellate District, Division Two, Case No. E051351; (PERB Case Nos. LA-CE-447-M, LA-CE-482-M). Issue: Did PERB err in Decision No. 2119-M (affirming an ALJ and finding in relevant part that statements by County supervisors and County officials were threats of reprisal that violated the MMBA)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in July 2010. On August 1, 2011, the Court of Appeal denied the petition and lifted a stay previously imposed. On August 12, 2011, the County filed a petition for review in the California Supreme Court. Case pending.

18. *Williams & Halcoussis v. PERB; California Faculty Association*, Los Angeles County Superior Court Case No. BS127710, California Court of Appeal, Second Appellate District, Case No. B233494 (PERB Case Nos. LA-CO-501-H, LA-CO-502-H). Issue: Did PERB err in Decision Nos. 2116-H and 2117-H (adopting a Board Agent's dismissal of petitioners' individual charges alleging that CFA violated HEERA by refusing to allow non-CFA members to cast a vote to determine employee support for a proposed two-days-per-month furlough

program)? A petition for writ of mandamus was filed in August 2010. The superior court denied the petition, and the case was dismissed on May 5, 2011. The petitioners filed a notice of appeal in the Court of Appeal on June 1, 2011. Briefing in that case is underway. Case pending.

19. *California Correctional Peace Officers Association (CCPOA) v. PERB; State of California (Department of Personnel Administration)*, California Court of Appeal, Third Appellate District, Case No. C066396 (PERB Case No. SA-CE-1621-S). Issue: Did PERB err in Decision No. 2130-S (affirming an ALJ's dismissal of underlying charge, which alleged in relevant part that State violated the Dills Act by (1) implementing its last, best, and final offer for a term of three years and (2) unilaterally eliminating Activist Release Time Leave)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in October 2010. On August 25, 2011, the court summarily denied the petition. Case closed/completed.

20. *Association of Building, Mechanical and Electrical Inspectors (ABMEI) v. PERB; City of San Jose*, California Court of Appeal, Sixth Appellate District, Case No. H036362 (PERB Case No. SF-CO-168-M). Issue: Did PERB err in Decision No. 2141-M (reversing an ALJ's dismissal of underlying charge, which alleged ABMEI violated the MMBA by picketing four private construction sites on three separate days, thereby engaging in conduct constituting unlawful pressure tactics in violation of the duty to meet and confer in good faith)]? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in December 2010, and the matter is fully briefed. Case pending.

21. *CSEA, Chapter 401 v. PERB; Castaic Union School District*, California Court of Appeal, Second Appellate District, Case No. B230002 (PERB Case No. LA-UM-799-E). Issue: Did PERB err in Order No. Ad-384 (reversing a Board Agent's decision and denying a unit modification petition that was filed by CSEA to include part-time playground positions, to a wall-to-wall classified bargaining unit)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (a)) was filed in January 2011, and briefing is underway. Case pending.

22. *California Correctional Peace Officers Association (CCPOA) v. PERB; State of California (Department of Corrections and Rehabilitation)*, California Court of Appeal, Third Appellate District, Case No. C067235 (PERB Case No. SA-CE-1595-S). Issue: Did PERB err in Decision No. 2154-S (dismissing CCPOA's charge seeking to: (1) include retired annuitants in bargaining unit 6 [correctional officers/parole agents]; and (2) collect fair share fees from such individuals)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in January 2011. Pursuant to a request for dismissal filed by CCPOA, the case was dismissed on May 18, 2011. Case closed/completed.

23. *Woods v. PERB; State of Calif. (Department of Corrections and Rehabilitation)*, California Court of Appeal, Third Appellate District, Case No. C067447 (PERB Case No. SA-CE-1640-S). Issue: Did PERB err in Decision No. 2136-S (dismissing Woods' charge alleging unlawful discrimination based on her rejection during probation)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in February 2011. Briefing is underway. Case pending.

24. *Salas v. PERB; City of Alhambra*, California Court of Appeal, Second Appellate District, Case No. B231481 (PERB Case No. LA-CE-513-M). Issue: Did PERB err in Decision No. 2161-M (reversing ALJ and dismissing Salas' charge alleging unlawful retaliation based on his termination from his probationary position)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in March 2011. Briefing is underway. Case pending.
25. *CDF Firefighters v. PERB; State of California (CAL FIRE)*, California Court of Appeal, Third Appellate District, Case No. C067592 (PERB Case No. SA-CE-1735-S). Issue: Did PERB err in Decision No. 2162-S (dismissing CDF Firefighters charge seeking to: (1) include retired annuitants in bargaining unit 8 [fire fighters]; and (2) collect fair share fees from such individuals)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in March 2011. Briefing is underway. Case pending.
26. *County of Riverside v. PERB; SEIU, Local 721*, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E053161 (PERB Case No. LA-CE-497-M). Issue: Did PERB err in Decision No. 2163-M (affirming the ALJ's determination that the County violated the MMBA by refusing to process SEIU's petition to accrete per diem employees into three existing bargaining units)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in March 2011. Briefing is underway. Case pending.
27. *Moore v. PERB; AFSCME, Council 36 & Housing Authority for the City of Los Angeles (HACLA)*, Los Angeles County Superior Court Case No. BS131048 (PERB Case Nos. LA-CO-104-M, LA-CE-572-M). Issue: Did PERB err in PERB Decision Nos. 2165-M and 2166-M (adopting a Board Agent's dismissal of both of petitioner's charges alleging retaliation by HACLA and failure of the duty of fair representation by AFSCME)? A petition for writ of mandamus was filed in superior court in March 2011, and PERB appeared in the action April 2011. Case pending.
28. *Fallbrook Elementary Teachers Association v. PERB; Fallbrook Elementary School District*, California Court of Appeal, Fourth Appellate District, Case No. D059434 (PERB Case No. LA-CE-5271-E). Issue: Did PERB err in Decision No. 2171-E (reversing an ALJ, and finding that the District did not retaliate against an employee based on an isolated statement reflecting anti-union animus)? A petition for extraordinary relief (Gov. Code, § 3542, subd. (c)) was filed in March 2011. Briefing is underway. Case pending.
29. *Police Officers Association, Victor Valley Community College District (POA) v. PERB*, San Bernardino County Superior Court, Case No. CIV-VS1102192 (PERB Case No. LA-SV-164-E). Issue: Did PERB err in Order No. Ad-388E (affirming a Board Agent's dismissal of a severance petition)? The POA filed a petition for writ of mandamus in April 2011. Case pending.

30. *Magner v. PERB, et al.*, Sacramento County Superior Court Case No. 07CS00173 (PERB Case No. SA-CE-1547-S). Issue: Did PERB err in Decision No. 1862-S (adopting a Board Agent's dismissal of Magner's charge alleging the State of California, Department of Forestry and Fire Protection, interfered with his rights under the Dills Act)? The case was filed in February 2007, and briefing concluded in March 2007. Case pending.